



Combating Workplace Violence

Guidelines for Employers and Law Enforcement

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Section 1. Introduction

Violence in the workplace can have devastating effects on the productivity of organizations and on the quality of life of employees. However, relatively few employers have established effective programs to combat this problem. Similarly, while the police role in combating workplace violence is increasing, few departments have modified their existing training, policies, or practices to reflect those changes. The purpose of this document is to provide employers and law enforcement with guidelines on the steps they should consider to help reduce certain workplace violence hazards.

The document focuses on violence committed by non-strangers (e.g., coworkers, bosses, clients, domestic partners) within a common worksite (e.g., factory, office, shop, construction site). It is important to note that many forms of workplace violence are not addressed, such as robbery, terrorism, and assaults while employees are working off-site. It is crucial that employers also take into consideration the possibility of those acts occurring and take action to minimize the hazards stemming from those crimes. Contact your local police department, insurance representative, OSHA office, security professional, or any of the applicable sources on page 22 for more information on how to reduce those hazards.

The guidelines for employers and police departments are presented in separate sections. The law enforcement guidelines were developed with input from over 300 chiefs and command level officers representing large, medium, and small departments. The employer guidelines also reflect input from hundreds of subject matter experts and practitioners, including business owners; managers; supervisors; lawyers; and security, personnel, human resource, threat assessment, and employee assistance specialists.

The guidelines can be used as benchmarks for helping assess the state of an organization's current policies and practices. However, not every recommendation may be appropriate for all organizations. If a suggestion has not already been implemented, the reader should consider whether that recommendation (or some derivation of it) would be appropriate for their organization.

Case examples and other illustrative information have been included to help readers better understand the issues being addressed. In addition, a model policy on workplace violence is offered for possible use by organizations without existing policies.

Employers and police share a leadership responsibility in combating workplace violence. By working together, police and employers can be far more effective in this effort. In addition, this partnership may serve other common interests, such as 1) improving the level of cooperation on community policing and business crime prevention efforts, and 2) increasing the extent to which employers and law enforcement share their resources. It is hoped that these guidelines will play a useful role in furthering this partnership.

Reasons for Establishing a Program

Some organizations may not see the need for creating a program to reduce the hazards of violence in the workplace, especially if they have never experienced an incident of violence. The following reasons are why it is important for all employers to consider the recommendations included in this document.

- Businesses are beginning to realize the high cost of just one violent incident. These costs can include medical and psychiatric care as well as potential liability suits, lost business and productivity, repairs and clean-up, higher insurance rates, consultants' fees, increased security measures and--most important of all--the death or injury of valued employees and coworkers.
- Threats and other violent, abusive behaviors are no longer being tolerated in the workplace.
- Executives, professionals, and administrative personnel are no longer immune to acts of violence in the workplace.

- Layoffs, increased workload, having to do more with less, and other unpopular changes in the work environment have been associated with increased risk for violence.
- Recent reports and surveys suggest that workplace violence impacts large numbers of employers and employees (see the sidebar for more details).

Impact of Workplace Violence

According to the Bureau of Justice Statistics (BJS), each year almost 1 million individuals become victims of violent crime while working. The BJS reports that about 500,000 victims of violent crime in the workplace lose an estimated 1.8 million workdays each year and over \$55 million in lost wages, not including days covered by sick and annual leave.

Source: Bureau of Justice Statistics Crime Data Brief: Violence and Theft in the Workplace, NCJ-148199, July 1994

- It's the right thing to do. Employers have both a moral and a legal obligation to provide a safe workplace for their employees, clients and visitors (refer to page 15).

These issues are spurring employers to develop plans for addressing workplace violence. When compared to the potential costs of an incident, these plans are a relatively inexpensive way to reduce the risk of violence and to minimize its impact.

The following case study illustrates how an organization, never before touched by violence, learned the value of being prepared for an incident.

Case 1
Violence Catches Company Unprepared

Prior to the 1980s most companies did not have threat management plans for dealing with workplace violence. Such was the case with a major computer-manufacturing corporation that was forced by two shocking incidents to develop the full corporate workplace violence program that is now in place.

The first event involved an employee who had been fired from the company some years before. Nobody understands why, after so many years, the employee decided to re-focus his unhappiness on the company. However, one day he got into his car and drove to his old building. He drove the car up onto the sidewalk and into the lobby, jumped out, and shot and killed a security guard. He shot at a few others, killing two, and then ran upstairs and began shooting randomly. He remained in the building some 6 or 7 hours, essentially holding all the employees hostage while SWAT teams and other negotiators talked with him. (Eventually, he surrendered. Tried and convicted, he committed suicide in prison sometime later.)

Although company management could scarcely believe that this could be more than an isolated event, they rushed to put together emergency plans throughout the company. Officials and employees alike were stunned when only three months later a second incident occurred at another location. This person had just been fired and had a particular grudge against the company department which he believed was responsible for his termination.

Many changes were initiated as a result of both these cases. Examples of defensive changes are: extending the protective perimeter by preventing cars from driving up to the building, hardening lobbies by creating a second barrier within the lobby, installing alarms, providing building maps, and putting in place special telephones for use in hostage negotiations. A whole range of contingency plans have now been developed worldwide to help the company cope with either preventing workplace violence or dealing better with its often tragic consequences.

Section 2. Guidelines for Employers

After reading these guidelines employers should have a better understanding of the most important steps they can take to minimize the impact of workplace violence and threats. This section concludes with a description of all employers' legal obligations and potential liabilities regarding workplace violence issues.

I. Pre-Incident Violence Prevention and Preparation

Pre-Employment Screening

Employers who conduct effective background checks can often improve productivity and reduce the number of personnel prone to exhibiting violent behaviors.

- Use a job application form that includes an appropriate waiver and release (permitting the employer to verify the information reported on the application). Prior to hiring any applicant, check references and inquire about any prior incidents of violence. In addition, conduct thorough background checks and use drug screening to the extent practicable.
- Also, evaluate the need for screening contract personnel who work at your facility. Vendors and service organizations whose personnel make frequent visits or spend long periods of time working at your facility should certify that those individuals meet or exceed your firm's safety and security requirements. Conversely, contractors who assign personnel to work at other organizations' facilities should also

consider the host firm's safety and security policies and practices.

- Recommend to legislative bodies that access to conviction records in all states be made available to businesses when conducting their background investigation process.

Take Advantage of Community Resources

There are many programs and resources in the community that can help you develop your workplace violence plans. Some examples follow.

- Invite local police into your firm to promote good relations and to help them become more familiar with your facility. The police can explain what actions they typically take during incidents involving threats and violence. Such visits can help your firm work better with police when incidents do occur.
- Use law enforcement and security experts to educate employees on how to prevent violence in the workplace. Such experts can provide crime prevention information, conduct building security inspections, and teach employees how to avoid being a victim.

- Consider utilizing local associations and community organizations, such as the Chamber of Commerce, security organizations, and law enforcement groups, as a resource in order to stay abreast of crime trends and prevention techniques. Communicate to your employees those issues and trends which pose a significant threat.

Institute and Review Security Procedures

Periodic review of security policies and procedures will help minimize your organization's vulnerability to violence and other forms of crime.

- Conduct security surveys at scheduled intervals to help determine whether modifications should be made. Four examples of improvements that might be considered during a security survey are:
 - a) Improved lighting in and around the place of work (including parking lots);
 - b) Arranging escorts for employees who are concerned about walking to and from the parking lot;
 - c) Having reception areas that can be locked to prevent outsiders from going into the offices when no receptionist is on duty; and
 - d) When appropriate, having more than one employee on the premises.
- Use, maintain, and regularly review appropriate physical security measures, such as electronic access control systems, silent alarms, metal detectors, and video cameras in a manner consistent with applicable state and federal laws.

- Limit former employees' access to the workplace as appropriate.
- Develop policies regarding visitor access within facilities. For example, if warranted, require visitors to sign in and out at reception, wear an identification badge while on the business premises, and/or be escorted.

Use a Common Sense Approach To Risk Management

Your organization's program to reduce the hazards of violence in the workplace should be based on common sense, reflecting: 1) the potential impact of one or more violent incident, 2) the likelihood of violent incidents occurring, and 3) the cost and effectiveness of the different measures you could take to reduce your risk. Your risk assessment should consider the likelihood of incidents occurring given the individuals, community, and type of organization involved. Among the sources of information available to help you make those determinations are 1) your organization's incident history, 2) police data concerning the type and rate of violent acts in your area, and 3) published reports comparing the violence rates across different types of organizations.

Improve Internal/External Communications

Employees should have a means to alert others in the workplace to a dangerous situation (see Case 2) and to provide information requested by emergency responders.

- If appropriate, establish an internal emergency code word or phone number similar to 911.

Case 2

Former Client Exacts Revenge

On a bright summer afternoon a middle-aged man rode up the elevator of a downtown high rise. He was toting a black satchel on a dolly similar to the kind lawyers use except that his contained two pistols, a handgun and hundreds of rounds of ammunition. This was the day he planned to get even with the firm which had formerly provided him legal counsel.

No one took notice of the man as he strode down the hall to the glass conference room. The people inside received no warning before he suddenly fired upon them. The gunman continued his rampage, shooting those who attempted to warn their colleagues. He sought out and shot employees who tried to hide and others who were trapped in their offices. As SWAT teams surrounded the floor his two pistols jammed, and the desperate gunman took his own life with the remaining weapon.

The unsuspecting firm learned a hard lesson: that even the most seemingly sheltered environments are not immune to violent crime. They have since instituted better access control procedures and improved internal warning systems among other precautions.

- Place lists of contact persons, crisis management plans, evacuation plans, and building plans where they can be made available to emergency responders. Keep important telephone numbers in several places (including offsite locations), available to all appropriate managers and employees.

Establish Ground Rules for Behavior

Organizations that do not tolerate drug abuse or aggressive interaction lower the risk of workplace violence.

- Organizations should inform employees about policies concerning drugs, violent acts, and possession of weapons so that employees know exactly what is expected of them.

- Implement procedures for your organization to become a drug-free workplace. This includes prohibiting unauthorized use or possession, or being under the influence of alcohol at work.
- Disseminate to all employees a policy of zero tolerance to threats or actual violence at the workplace. For example, discipline or terminate every threat-maker if the complaint is substantiated.
- Establish a policy applicable to everyone employed by the company or on company property, including the company parking lot, prohibiting the possession of weapons which have not been authorized by your organization.

Employers may use the model policy on the following page to develop their own company policy on violence and threatening behavior in the workplace.

Model Policy for Workplace Threats and Violence

Nothing is more important to (Company Name) than the safety and security of its employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on (Company Name) property will not be tolerated. Violations of this policy will lead to disciplinary action which may include dismissal, arrest, and prosecution.

Any person who makes substantial threats, exhibits threatening behavior, or engages in violent acts on (Company Name) property shall be removed from the premises as quickly as safety permits, and shall remain off (Company Name) premises pending the outcome of an investigation. (Company Name) will initiate an appropriate response. This response may include, but is not limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person or persons involved.

No existing (Company Name) policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring or a life threatening situation from developing.

All (Company Name) personnel are responsible for notifying the management representative designated below of any threats which they have witnessed, received, or have been told that another person has witnessed or received. Even without an actual threat, personnel should also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a company controlled site, or is connected to company employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior. If the designated management representative is not available, personnel should report the threat to their supervisor or another member of the management team.

All individuals who apply for or obtain a protective or restraining order which lists company locations as being protected areas, must provide to the designated management representative a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.

(Company Name) understands the sensitivity of the information requested and has developed confidentiality procedures which recognize and respect the privacy of the reporting employee(s).

The designated management representative is:

Name: _____
Title: _____ Department: _____
Telephone: _____
Location: _____

Employee and Manager Training

In order for policies and procedures concerning workplace violence to be effective, they must be implemented in conjunction with appropriate employee training.

- Train managers and other selected individuals on appropriate ways to handle employee termination's, layoffs, and discipline. Examples include appropriate use of Employee Assistance Program (EAP) counselors and outplacement services; providing managers with sensitivity and aggression management training; and, when possible, assessing violence potential of individuals prior to termination and taking appropriate measures such as hiring additional security.
- Suggest local police encourage victims of threats and violence outside the workplace to notify their employers

about the incident when warranted so their employers can take appropriate measures to help protect them and their coworkers from possible future incidents of violence at the work site. It is recommended that employers reinforce this message to their employees. Upon notification, employers should provide receptionists and other front-line personnel having a need to know a description or picture of the alleged offender and inform them what actions they should take in the event that individual seeks entry or contact.

- Have available for your employees information about the potential for violence in the workplace, how to recognize the early warning signs of a troubled or potentially violent person, how to respond to those individuals, and how to report such incidents. See the following two side bars for details on identifying and conducting yourself around potentially violent individuals.

Warning Signs of Potentially Violent Individuals

There is no exact method to predict when a person will become violent. One or more of these warning signs may be displayed before a person becomes violent but does not necessarily indicate that an individual will become violent. A display of these signs should trigger concern as they are usually exhibited by people experiencing problems.

- | | |
|---|---|
| • Irrational beliefs and ideas | • Displays of unwarranted anger |
| • Verbal, nonverbal or written threats or intimidation | • New or increased source of stress at home or work |
| • Fascination with weaponry and/or acts of violence | • Inability to take criticism |
| • Expressions of a plan to hurt himself or others | • Feelings of being victimized |
| • Externalization of blame | • Intoxication from alcohol or other substances |
| • Unreciprocated romantic obsession | • Expressions of hopelessness or heightened anxiety |
| • Taking up much of supervisor's time with behavior or performance problems | • Productivity and/or attendance problems |
| • Fear reaction among coworkers/clients | • Violence towards inanimate objects |
| • Drastic change in belief systems | • Steals or sabotages projects or equipment |
| | • Lack of concern for the safety of others |

Personal Conduct to Minimize Violence

Follow these suggestions in your daily interactions with people to de-escalate potentially violent situations. If at any time a person's behavior starts to escalate beyond your comfort zone, disengage.

Do

- Project calmness: move and speak slowly, quietly and confidently.
- Be an empathetic listener: encourage the person to talk and listen patiently.
- Focus your attention on the other person to let them know you are interested in what they have to say.
- Maintain a relaxed yet attentive posture and position yourself at a right angle rather than directly in front of the other person.
- Acknowledge the person's feelings. Indicate that you can see he or she is upset.
- Ask for small, specific favors such as asking the person to move to a quieter area.
- Establish ground rules if unreasonable behavior persists. Calmly describe the consequences of any violent behavior.
- Use delaying tactics which will give the person time to calm down. For example, offer a drink of water (in a disposable cup).
- Be reassuring and point out choices. Break big problems into smaller, more manageable problems.
- Accept criticism in a positive way. When a complaint might be true, use statements like "You're probably right" or "It was my fault." If the criticism seems unwarranted, ask clarifying questions.
- Ask for his recommendations. Repeat back to him what you feel he is requesting of you.
- Arrange yourself so that a visitor cannot block your access to an exit.

Do Not

- Use styles of communication which generate hostility such as apathy, brush off, coldness, condescension, robotism, going strictly by the rules or giving the run-around.
- Reject all of a client's demands from the start.
- Pose in challenging stances such as standing directly opposite someone, hands on hips or crossing your arms. Avoid any physical contact, finger-pointing or long periods of fixed eye contact.
- Make sudden movements which can be seen as threatening. Notice the tone, volume and rate of your speech.
- Challenge, threaten, or dare the individual. Never belittle the person or make him/her feel foolish.
- Criticize or act impatiently toward the agitated individual.
- Attempt to bargain with a threatening individual.
- Try to make the situation seem less serious than it is.
- Make false statements or promises you cannot keep.
- Try to impart a lot of technical or complicated information when emotions are high.
- Take sides or agree with distortions.
- Invade the individual's personal space. Make sure there is a space of 3' to 6' between you and the person.

Prevention Programs

Companies need to have programs in place to assist troubled employees and to address managerial concerns before violence or threats arise.

- Provide confidential employee assistance programs (EAP) to deal with emotional, substance abuse, marital, and financial problems. Or, provide employees with a list of relevant community resources. Employees, supervisors, and managers should be actively encouraged to use these services.
- Conduct exit interviews when employees retire, quit, or are transferred or terminated to identify potential violence-related security or management problems.

Reporting Procedures

All employees should know how and where to report violent acts or threats of violence.

- Encourage employees to report and establish avenues of communication so they can do so without fear of reprisal or criticism:
 - a) Incidents of threats, harassment, and other aggressive behavior (see the sidebar for more details);
 - b) Conditions where employees are subjected to excessive or unnecessary risk of violence; and
 - c) Suggestions for reducing risk of violence or improving negative working conditions, such as establishing a telephone hot-line, identifying specific points of contact in the organization for addressing those issues, having a suggestion box or computer bulletin board, or providing an ombudsman.

Recognizing Inappropriate Behavior

Inappropriate behavior is often a warning sign of potential hostility or violence. When left unchecked it can escalate to higher levels. Employees who exhibit the following behaviors should be reported and disciplined in accordance with your company policy:

- Unwelcome name-calling, obscene language, and other abusive behavior
- Intimidation through direct or veiled verbal threats
- Throwing objects in the workplace regardless of the size or type of object being thrown or whether a person is the target of a thrown object
- Physically touching another employee in an intimidating, malicious, or sexually harassing manner. That includes such acts as hitting, slapping, poking, kicking, pinching, grabbing, and pushing
- Physically intimidating others including such acts as obscene gestures, "getting in your face" and fist-shaking

- Establish a policy to assure that reports which are submitted from outside the company, concerning potentially violent people who are likely to be present at your worksite are routed to the appropriate manager and then investigated. The types of information collected during an investigation are discussed in the side bar below.

Threat Incident Report

Company policy should require employees to report all threats or incidents of violent behavior which they observe or are informed about to the Designated Management Representative (DMR). The DMR should take the steps necessary to complete a threat incident report as quickly as possible, including private interviews of the victim(s) and witness(es). The report will be used by the Threat Management Team (see box on page 12) to assess the safety of the workplace, and to decide upon a plan of action. The following facts should be included in the threat incident report:

- Name of the threat-maker and his/her relationship to the company and to the recipient
- Name(s) of the victims or potential victims
- When and where the incident occurred
- What happened immediately prior to the incident
- The specific language of the threat
- Any physical conduct that would substantiate an intention to follow through on the threat
- How the threat-maker appeared (physically and emotionally)
- Names of others who were directly involved and any actions they took
- How the incident ended
- Names of witnesses
- What happened to the threat-maker after the incident
- What happened to the other employees directly involved after the incident
- Names of any supervisory staff involved and how they responded
- What event(s) triggered the incident
- Any history leading up to the incident
- The steps which have been taken to ensure that the threat will not be carried out
- Suggestions for preventing workplace violence in the future

Elements of the threat incident report and any subsequent actions relating to the incident should be recorded in a tracking system for use by the DMR and the Threat Management Team. Such systems range from simple card files to commercially available relational databases. The tracking system as well as all investigative files, should be kept secure and maintained separately from other records.

Prepare a Threat Management Plan

It is important to prepare a threat management plan so that when a threat occurs everyone will know that there is a policy and will understand what to do. The plan might include:

- Designating a threat management team;
- Providing guidance concerning liaison with outside assistance;
- Providing guidance developed in concert with local authorities for collecting and preserving evidence, including interviews of involved parties;
- Managing of communications regarding the incident, for example, media relations, internal communications, and possible use of a rumor control desk;
- Managing the release of sensitive information where appropriate;
- Assigning responsibilities for contacting the families of victims;
- Managing clean-up and repairs;
- Making decisions about returning to work;
- Notifying customers and suppliers about changes in orders;
- Providing employees and their families with information about their benefits; and
- Managing operations and trauma care after the crisis.

The threat management team is a critical component of every successful threat management plan. For more information about the composition and role of the threat management team, see the following box.

Threat Management Team

The threat management team consists of representatives from security, human resources, legal, medical services (or EAP) and safety. It may include external consultants such as psychologists, psychiatrists or threat assessment experts.

The primary responsibility of this team is to develop a plan of action to resolve bona fide threats or acts of violence. Team members provide liaison with outside resources such as police, threat assessment professionals, and trauma teams. In addition, team members may be responsible for managing violence prevention programs, including needs assessment and awareness training.

II. Addressing Violent or Threatening Incidents

Use All Available Resources

When an incident occurs, bring together all the necessary resources, which may include help from outside the company.

- When a serious threat is made, consult the sources available to you to help evaluate the level of risk posed by the threat-maker.
- When appropriate, obtain fitness-for-duty evaluations of employees exhibiting seriously dysfunctional behaviors at the workplace.
- Maintain an internal tracking system of all threats and incidents of violence.

- When a threat has been made or an incident has occurred, evaluate the situation and, if warranted, notify the potential victims and/or police (see Case 3 below).

Case 3

Small Business Threatened by Former Employee

The partners of a firm never dreamed that a former member of their small family-like business would ever turn against them.

One afternoon an anonymous caller made a death threat against one of the managers. The recipient of the call recognized the caller's voice as a former long-term employee who had recently been laid off by the firm because of a downturn in business.

The police were phoned immediately and began their investigation by contacting the suspected former employee. The man indicated his despair over the loss of his job and quickly confessed to making the threatening phone call.

Fortunately, intervention occurred before the perpetrator had a chance to carry out his threat. However, the remaining employees, already in a state of low morale due to the layoffs, were terribly shaken by the incident. Use of sick leave increased and productivity was negatively affected for several weeks following the threat.

Evaluate Security After a Threat

The threat management team should review risks and determine what additional security measures, if any, should be put in place after an incident.

- If warranted, provide increased work-site protection when serious threats of violence have been made. Such protection might include requesting additional police patrols, hiring security guards, and/or alerting organizations or people who might be affected.
- Consider the costs and benefits of providing increased protection to threatened employees. This could include changing their phone numbers, relocating them, loaning them a cellular phone, or providing them with a quick response distress button or information about where this device can be obtained.
- Seek guidance and training on what procedures should be taken to screen mail and packages after a threat has been made or after a large-scale layoff. Contact the U.S. Postal Service or local police for guidance.
- After a violent incident evaluate the potential for further violence at your workplace and reassess your threat management plan.
- Counsel potential victims about the various civil and criminal options available to them, such as obtaining a restraining order.

Considerations Regarding Restraining Orders and Other Interventions

The potential reactions of the offender need to be considered when deciding whether or not to seek a restraining order. At a minimum, additional security precautions should be taken if the offender is likely to respond negatively to the intervention chosen, especially during the period immediately following that intervention.

III. Managing the Aftermath of an Incident

Trauma Plan

Helping employees with the psychological consequences of workplace violence is the humane thing to do. It also greatly helps to reduce financial losses caused by absence, loss of productivity among employees, and workers' compensation claims.

After a violent incident, provide information and offer counseling services to employees and their families which may include:

- Providing a debriefing 24 to 72 hours after a serious incident of violence to include all affected employees so that the cause of the violence and expectations can be discussed, a plan of action can be addressed, and those needing further counseling can be identified;
- Providing a group debriefing after a serious incident of violence for immediate coworkers in how to communicate with the victim/coworker who is re-entering the job after absence; and
- Providing ongoing follow-up treatment, as needed.

The case which follows describes how a company successfully coped with a terrible incident because it had made plans in advance.

Case 4 ***Preparation Pays Off***

A major manufacturing company on the West Coast with over 300,000 employees has over the years been developing a coordinated management plan for dealing with workplace violence.

During the incident, one employee shot his lover and wounded another individual before turning the gun fatally on himself. This incident occurred at a plant where training had recently been received and an action plan developed. Although in this particular case the death and injury probably could not be *prevented*, at least the planned system for coping with the aftermath worked flawlessly: police were immediately on the scene, next of kin promptly informed, press releases written, the plant closed temporarily, and employees and relatives counseled. Only thorough training and advanced planning could account for the excellent manner in which the aftermath was handled.

Support Prosecution of Offenders

To prevent further incidents from occurring and to show their support of the victims, employers should support prosecution of offenders.

- Accommodate employees after a violent incident so they can make court appearances and work with the prosecution.
- Cooperate with law enforcement authorities to help identify and prosecute offenders through the use of any means at your disposal, such as crime stoppers, rewards.

IV. Legal Obligations and Duties of Employers

The duty of an employer to provide a reasonably safe workplace may arise from a variety of federal or state statutes, regulations, or judicial decisions. Employers seeking to avoid liability for acts of workplace violence should become familiar with the legal requirements. The following highlights provide a foundation for the legal audit of your current business policies and practices for reducing workplace violence.

Workplace Safety

- Compliance with the Occupational Safety and Health Act, and similar state laws, may contribute positively to reduction of the risk of workplace violence.
- Many state courts have ruled that an employer is liable for the dangerous acts of employees if such harm was foreseeable. The employer must use reasonable care in hiring, training, supervising and retaining employees.
- Case law in some jurisdictions suggests that the employer may be liable for the negligent acts of independent contractors, where such contractors are incompetent, negligently selected, or engaged in abnormally dangerous activities.
- Under both federal and state statutes, the employer may be liable for failure to intervene in situations of harassment of employees by supervisors or management, and in situations involving coworkers where the employer was aware of the harassment.

- The employer may be liable for the acts of an employee who is intoxicated or otherwise a risk to others, if the employer exercises control over the employee and is negligent in exercising that control.
- Employers are expected to use reasonable security precautions and other measures to minimize the risk of foreseeable criminal intrusion (based upon the prior experience of the employer, its location in a dangerous area, or industry victimization base rates).
- Employers should be cautious about reducing the level of security because of financial pressures. To avoid or reduce liability the employer should first assess whether the level of security risk justifies reducing security measures.

Training Issues

- Various federal and state laws or case law may require the employer to establish written policy and procedures dealing with harassment, as well as the training of employees as to company policies prohibiting sexual or racial harassment, fighting, and the use of drugs or alcohol in the workplace.
- The employer may avoid or reduce liability for acts of violence in the workplace where it is shown that the employer conducted training for employees on the recognition of warning signs of potentially violent behavior, and on precautions which may enhance the personal safety of the employee at work.

Duty to Warn

- In some jurisdictions, an employer, employment counselor, or therapist may have a duty to warn an identified employee, spouse, or third party of a threat made by another to do bodily harm to that person.

Nondiscrimination

- Under state and federal law, the employer must refrain from retaliation against employees who express their concerns regarding unsafe working conditions, such as threats of violence.
- The Americans with Disabilities Act of 1990 (ADA) and related state statutes prohibit employers from discriminating against qualified individuals with physical or mental disabilities. An employee could claim that his violent or threatening behavior was the result of a disability and request reasonable accommodation from the employer. While federal law and judicial decisions provide that an employer may disqualify an employee who is a danger to self or others, the employer may be obliged to investigate a claim of disability to determine whether dismissal is necessary for the protection of the employee or others in the workplace.

Respecting Employee Rights

- In the event that an employer warns employees of an individual's threat of violence, the employer could be liable for defamation if the employer is subsequently proved to be mistaken. The employer can minimize this liability by conducting a prompt investigation of all allegations and by notifying only those individuals who have a need to know of the risk.
- An employee terminated for having violent tendencies could file a wrongful discharge suit against the employer if the employee disputes his employer's characterization. A thorough investigation of complaints against an employee should be conducted prior to termination. Employers should consider suspension of the employee with pay while the charges are being investigated. The employer might also consider offering the employee a chance to resign as an alternative to termination.
- The employer must respect the privacy rights and confidentiality rights of employees during any investigation.

The above list of legal obligations is not meant to be comprehensive. To find out more about the requirements in your state, refer to your state statutes or ask your legal counsel.

Section 3. Guidelines for Law Enforcement Agencies

Fifteen years ago police agencies provided little or no service to the victims of domestic violence because such intervention was not considered appropriate. Today nearly every police department has a policy, procedures and resources dedicated to addressing domestic violence. Workplace violence warrants a similar response from law enforcement, given the rise of violent crime by nonstrangers in the workplace, the heightened concern of employers, the high risk for injury associated with these crimes, and the inappropriateness of using traditional police strategies when confronting multiple-victim workplace shooting situations.

Many police executives have concluded that their existing domestic violence programs provide a useful framework for structuring new policies and procedures concerning workplace violence. This strategy was used by many of the police officials who developed the following guidelines for law enforcement agencies. These guidelines should help police address workplace violence in their communities without overtaxing departmental resources. Employers may also wish to read this section so that they can better understand how police agencies might assist them in combating workplace violence.

I. Pre-Incident Violence Prevention and Preparation

Policy and Organization

Large, medium and small law enforcement agencies--should consider the following policies for combating violence in the workplace.

- Encourage police executives to implement exemplary violence prevention policies and practices within their own department.
- Encourage the formation of regional law enforcement coalitions to develop and coordinate prevention resources and provide liaison to assist employers.

- Work closely with other law enforcement groups, prosecutors, and legal advisors to keep abreast of changes affecting the prosecution of workplace violence cases.

Police Training

Workplace violence issues can be incorporated into police training in the same way as domestic violence.

- Incorporate into police academy curricula training on workplace relationships and the conditions that result in violence.
- Incorporate into general in-service training exercises recognition of the causes of workplace violence, conflict resolution technique training, workplace violence scenarios, and police response guidelines.

- Provide and improve officer training in workplace violence and conflict resolution techniques.
- Train chiefs and officers to handle liaison with employers.

Police Services to the Public

Police agencies should be prepared to assist employers in the following ways:

- Provide employers with information concerning police department resources.
- Provide employers with these guidelines and examples of when to contact the police department in matters involving workplace violence.
- Assist employers in their efforts to improve their physical security and the prevention of acts of violence.

Seek Cooperation from Employers

Encourage employers to keep law enforcement informed of potential problems and to be prepared with information that will aid responding officers.

- Request advance warnings from employers and unions of pending strikes or other events affecting security.
- Encourage employers to maintain current threat management plans, evacuation and building plans, and lists of contact people placed in a location where the documents will be immediately available to the law enforcement officers who respond to an incident.

Encourage the Following Preventive Measures

Police chiefs and crime prevention officers frequently make presentations to community groups. Listed below are several items that could be covered in such presentations to address concerns about workplace violence.

- Recommend that employers, in consultation with their local law enforcement agency, design policies and procedures for handling threats or assaults made against or by their employees.
- Encourage and cooperate with business and community organizations to compile, regularly update, and distribute a list of community resources, such as law enforcement and crime prevention services, mental health services, and women's shelters, for use by their members and employees.
- Encourage local newspapers and telephone companies to list current community resources in a centralized location.
- Recommend that employers implement procedures to have their organization be a drug-free workplace.
- Encourage employers to adopt a zero tolerance policy for violent behavior or threats among their employees. Make the policy part of their new employee orientation sessions, and enforce it. Refer to the example of a model policy on page 7.

- Encourage employers to obtain a thorough work history from all prospective employees, and inquire about periods of unexplained employment; conduct as thorough background and work-related reference checks as possible, including checking court records and other repositories; and thoroughly interview job candidates before offering them a position.
- Suggest employers become educated on state, local, and federal laws applicable to assault, domestic violence, trespassing, stalking, and threats.
- Encourage employers to train their employees in conflict resolution techniques.
- Recommend that employers offer employee training in personal security awareness, to avoid being victimized.
- Suggest employers establish an employee assistance referral system for dealing with potentially violent individuals that not only helps the troubled employee, but also serves to protect the other members of the organization.
- Encourage employers to form or participate in an incident resolution team for prevention, intervention, and dealing with the aftermath of incidents.
- Strongly encourage employers to report threats and incidents of violence to their local law enforcement agency.
- Encourage employers to maintain an internal tracking system of threats and incidents (refer to the threat incident report elements listed on page 11).

II. In-Progress Violent or Threatening Incidents

Law enforcement should take the following types of actions after an initial act of violence or a threat has occurred.

- Conduct local criminal history checks of reported threat-makers when a criminal investigation is conducted.
- Have a police officer make contact with a reported violent threat-maker.
- Advise the employer, victims, or potential victims how to obtain restraining or protection orders or other victim services.

III. Managing the Aftermath of an Incident

Policy and Organization

The following policy and organizational measures improve police responsiveness to workplace violence as well as to other forms of violent crime.

- Encourage coordination between the agencies that deal with workplace violence.
- Encourage the development and use of regional Critical Incident Stress Debriefing teams for first responders (see side bar for more information).
- Undertake a coordinated critique of the department's response after each serious incident of workplace violence.

Police Services to the Public

Law enforcement plays a crucial role in disseminating information after serious incidents of violence in the workplace. These items concern ways to improve performance in that area.

- Provide the employer with a central point of contact in the department who will answer questions and address concerns.
- Coordinate with the affected organization and other agencies to assist victims' families in locating survivors of a violent incident.

Critical Incident Stress Debriefing

Following a threat or an act of violence in the workplace, employees, witnesses and their families often suffer from stress-related ailments such as insomnia, depression, anger, headaches and ulcers. These conditions translate into higher rates of absenteeism, loss of productivity and higher rates of turnover for the employer. Much of this suffering and economic loss can be reduced if the affected individuals receive debriefings from experienced counselors 24 to 72 hours after the traumatic incident.

The purpose of such a debriefing is to provide employees and others affected by the event with the opportunity to express their thoughts and feelings about what happened and how it was handled. It also gives the debriefing team the chance to educate employees about the symptoms of Posttraumatic Stress Disorder and to identify individuals who might need further counseling.

Encourage Employers to Take the Following Actions

Police should encourage employers to follow the recommendations listed below to help minimize the impact of an incident and prevent further violence.

- Encourage employers to use Critical Incident Stress Debriefing teams for employees and other victims affected by workplace violence.

- Encourage employers and labor organizations to participate in aftermath debriefings.
- Encourage the department and the employer to coordinate news releases.
- Encourage employers to support their employees in the prosecution of violent crime incidents.

Reducing vs. Displacing Violence

Many of the steps often taken to reduce violence in the workplace do not prevent violence, they displace it. For example, a person who is screened out from being hired by one employer will probably be hired by another employer who has a less thorough screening procedure.

In order to actually *reduce* violence, communities need to prevent children from developing into violent adults. Some children get involved with violence because they lack adequate supervision and support, especially after school. Offering these kids an alternative to gangs, drugs and other criminal activities can help to steer them away from a life of violence.

Law enforcement agencies should encourage local organizations to participate in community violence prevention programs. Organizations can assist in many ways that need not be expensive. Taking advantage of school, church, public housing, and park district facilities that are underutilized during certain periods is one way to keep down the costs. Peer programs where participants help provide instruction (more advanced pupils teaching the less advanced) can be both successful and cost-effective. Some businesses provide their employees and managers opportunities to donate their time as paid or unpaid volunteers. Another way organizations can help is by donating services, equipment or funds to a program. Contact any of the applicable resources listed in the next section for more information on joining or starting a violence prevention program in your community.

Where to Get Additional Information

1. For information regarding a wide variety of topics, including violence issues and delinquency prevention.

National Criminal Justice Reference Service
Box 6000
Rockville, MD 20850
Tel. 800-851-3420
Fax 301-251-5212
E-mail askncjrs@aspensys.com
World Wide Web site at <http://ncjrs.aspensys.com:81/ncjrshome.html>

2. PAVNET (Partnerships Against Violence Network) Online provides information on promising programs, technical assistance, teaching materials, and funding sources to Internet users. Point your browser to: "gopher://cyfer.esusda.gov:70/11/violence". The information in PAVNET Online is also available on diskette from the National Criminal Justice Reference Service, 800-851-3420.

3. For listings of violence prevention and treatment programs available to the public, topical database searches, information on violence-related curricula and videos, etc. :

Center for the Study and Prevention of Violence
University of Colorado at Boulder
Institute of Behavioral Science
Campus Box 442
Boulder, CO 80309-0442
Tel. 303-492-1032
E-mail IBS@Colorado.edu

4. Nonprofit corporation established by the parents of four teenagers who were murdered at work. Provides brochures, videotapes and other information regarding the risks of workplace violence.

"We Will Not Forget SAJE, Inc."
P.O. Box 650124
Austin, TX 78765
Tel. 512-448-6972

5. The USC Center for Crisis Management has conducted a national survey on workplace violence, and conducts management training for preventing and/or responding to workplace violence. A summary report of the research may be obtained by contacting the Center.

Center for Crisis Management
Graduate School of Business
University of Southern California
Bridge Hall 200
Los Angeles, CA 90084-1421
Tel. 213 740-8504

6. The IACP sponsors a number of publications concerning topical crime prevention issues such as combating drug crimes in the workplace.

The International Association of Chiefs of Police
515 N. Washington St.
Alexandria, VA 22314-2357
(703) 836-6767



Private Sector Liaison Committee (PSLC)

Members of the IACP Private Sector Liaison Committee not only initiated the project, they also hosted 16 focus groups to identify and refine the recommendations and provided support and guidance throughout the entire process.

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Other Private Sector Liaison Committee Publications of Public Safety Interest

The Private Sector Liaison Committee (PSLC) regularly sponsors publications of interest to both law enforcement and the private sector. The following publications were produced with cooperation from the listed sponsors and contributors. These publications are in the public domain and may be used as resources in addressing the particular problem of interest. These and all upcoming PSLC publications will be available on the World Wide Web at <http://www.amdahl.com/ext/iacp/> or by writing to IACP.

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The International Association of Chiefs of Police is the world's senior law enforcement executive association. Founded in 1893, IACP comprises over 14,000 members representing 80 different nations. As an organization it is headquartered in Alexandria, Virginia, with a permanent staff of approximately 50 professionals. Over 150 working professionals serve on the training faculty. IACP is guided by an advisory board of 52 police executives representing international, federal, state and local law enforcement agencies. This group provides policy direction to the professional staff and the association's diverse working groups, divisions, committees, and sections comprised of the heads of law enforcement agencies from throughout the world. The groups address contemporary issues facing law enforcement.

IACP represents a commonwealth of police administrators from the world law enforcement community. It is the singular point of focus where the smallest to the largest of police forces can meet for assistance and direction in a wide range of problem-solving agendas while still maintaining individual agency independence.



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